

Template



Llywodraeth Cymru
Welsh Government

Social Farms
& Gardens
Ffermydd a Gerddi
Cymdeithasol



Allotments management toolkit: Lease Requirements/Heads of Terms template

Introduction

Social Farms & Gardens have worked with the Welsh Government to produce a range of resources to help ensure local authorities and others involved in the management of allotment sites in Wales maximise the potential of those sites for the local population.

With support from the Welsh Government, SF&G Wales have written a guidance document for local authorities, growers and growing groups in Wales which provides an overview of allotment site management.

This toolkit consists of a series of factsheets which expand on various topics covered in the Guidance and a selection of sample tenancy and other legal document templates to assist in site management.

All of these resources are available to download from:

www.farmgarden.org.uk/allotment-site-management-toolkit

About this template

This template can be used by both landlords and tenants as an aide memoir, to stimulate discussion between the members of the community group and also as the basis to record decisions reached by the parties. It is known as the 'Heads of Terms'.

This list is not exhaustive and if other matters are of importance between the parties, then they should be included.

It is important to mark it 'Subject to contract and without prejudice' which means that you'll be turning it into a formal agreement at a later date. This prevents the Heads of Terms being mistaken for the final contract.

This template should be completed after referring to our accompanying advice sheet 'How to complete your lease requirements template' (available to download from the link above).

Last updated: January 2021

Without prejudice and subject to contract/lease/licence or other tenancy document

Landowner

Note: The name of the Landowner should match the name of the person/entity as registered on the title deeds.

Name:

Address:

Contact details:

Tenant/Occupier

Notes: If you intend to lease the land as a group, you would need to create a legal entity to take the lease in its name.

Creating a legal entity is similar to creating a whole separate person that the law recognises. This 'person', once created, has its own legal rights and obligations, separate to those who own or run that "entity".

An entity could be a company, a partnership, a charity or any other entity that is recognised by law as having its own separate legal existence. (So, something like a Facebook group or a simple constituted group would not be considered a legal entity).

A legal entity is able to enter into contracts, incur and pay back debts, be accountable for activities against the law and sue or be sued by other entities. This allows you to avoid potentially heavy personal financial risk if a tenant obligation is not carried out as the landowner will only be able to sue the separate entity that you've created.

Name:

Address:

Contact details:

Guarantor (if any)

The guarantor will need to be included as a party to the tenancy document.

Identity of guarantor:

Contact details:

Solicitors

Landowner's solicitor:

Tenant's solicitor:

Agents (if applicable)

Landowner's solicitor:

Tenant's solicitor:

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Site

Note: In most cases you will need to buy a plan online or get a surveyor to draw up a plan.

Address:

As shown [edged red] on the attached plan.

Access and Parking

Access with vehicles on the routes [marked brown] on the plan, parking in the [shaded blue area only]. Access by foot along the routes [marked green].

Rent

A rent of £..... to be paid monthly/annually/half yearly/other..... in advance/arrears.

Rent free period (if applicable)

VAT status of the premises

Has the Landowner elected the Property to tax (for VAT purposes)?

Rent payment days

Rent to be paid on

Rent deposit (if any)

Amount:

Date of deposit return:

Rent review

Will there be a review? Yes/No

If yes. what is the review based on? (E.g. open market rent, linked to an index):

How often is the rent reviewed?:

Term (length of lease)

From (start date) to (end date) being Years/ months

Break clause

The tenancy can/cannot be ended by either party giving months minimum notice on (date)

Security of tenure (right to renew)

Has it been agreed between the parties that the lease will be contracted out of section 24-28 of the Landlord and Tenant Act 1954? Yes/No

Notes: The Landlord and Tenant Act 1954 allows the tenant/occupier the right to a new lease on the same terms (save for rent) at the expiry of the current lease/licence term. If you agree to contract out of this clause. A statutory Notice will need to be served.

Please refer to 'Leases: Flowchart for Lease Type' to determine the right type of land agreement for the tenant. This helps the tenant decide whether the right to renew is required or not by determining the purpose of the lease.)

You can access the flowchart here: www.farmgarden.org.uk/leases

Erection of hard-standing/structures/buildings

- Is it permitted? Is consent required? Is planning permission required?

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Alterations

- Are you permitted to carry out any alterations to the property to fit your business needs?
- Are structural alterations permitted (load-bearing work/ changes the essential)?
- Are general alterations permitted? (Fixtures and fittings)
- Will the landowner's consent (aka a licence for alterations) be required to make such alterations?
- Do alterations need to be removed when the lease ends?

Permitted user

Notes: Specify what the tenant/occupier is allowed to use the property for as it will dictate the type of lease the tenant will need. E.g. The growing of and selling of..... keeping of animals

Planning permission

- Is it required?
- Who is applying (Landowner or Tenant)?
- Should the agreement be conditional on planning permission being granted?
- Does the proposed use of the property fall into any of the 'use classes' under the Town and Country Planning (Use Classes) Order 1987 or is it 'sui generis', meaning it does not fit any of those uses?
- Are there any exceptions to change from one class to another without the need for planning permission?

Insurance

Note: Specify who is responsible for each different type of cover.

Type of cover	Landowner to insure	Tenant to insure
Buildings		
Public liability		
Damage by fire, storm etc		
Theft/vandalism		
Employers liability		
Terrorism		

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Maintenance

Note: Specify who is responsible for each item. Non-exhaustive list; feel free to add more categories specific to your site if necessary.

Item	Landowner's responsibility	Tenant's responsibility
Exterior		
Interior		

Compensation for improvements

Parties to agree compensation for each item of improvement before building it/at the end of the agreement remove and return site to grass.

Water, business rates, gas and electricity

Is this included in the rent or is it the tenant's responsibility to deal directly with the water/gas/electricity companies?

Note: It is the tenant's responsibility to pay gas and electricity. If this is not included within your rent, you are required to pay this directly to your supplier.

Service charges (if any)

Is there an extra charge for maintenance on a property which has been leased (e.g. cleaning costs)?

Alterations

Note: Beware! Your landlord may try to impose conditions on assignment; these may be onerous in the future and you can push back on these.

Alteration	Prohibited	Consent required and conditions for consent	Permitted without consent
Rights to assign the property			
Rights to sublet the property			
Rights to share occupation of the property			

Responsibility for legal costs in finalising the agreement

Each party is to be responsible for their own legal costs.

Note: Both the landlord and the tenant/occupier will have their own legal costs, usually each party is responsible for their own costs. You can agree otherwise, but please do ensure that these terms are consistent throughout the whole document.



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